

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NEWPORT NEWS DIVISION**

**FRANCIS W. HOOKER, JR.,  
for himself and on behalf of all  
similarly situated individuals,**

**Plaintiff,**

**v.**

**Case No.: 4:13-cv-00003 (AWA/LRL)**

**SIRIUS XM RADIO INC.**

**Defendant.**

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**MOTION FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

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Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, Plaintiff Francis W. Hooker, Jr. moves this Court to:

1. Preliminarily approve the Settlement Agreement attached as Exhibit A to the Declaration of Michael A. Caddell, Exhibit 1 to the Memorandum in Support of this Motion;

2. Conditionally certify, for settlement purposes only, a Settlement Class consisting of:

All natural persons residing in the United States (including all territories and other political subdivisions of the United States) who (a) received programming on a promotional basis from Sirius XM in connection with the purchase or lease of a new or used vehicle that ended no later than April 5, 2016; (b) were the recipients of one or more telephone calls made by or on behalf of Sirius XM to their wireless, cell or mobile phone numbers after February 15, 2008 and before July 5, 2016; and (c) never were or became paying subscribers prior to July 5, 2016. Excluded from the class definition are any employees, officers, or directors of Sirius XM, and any attorneys appearing in this case, and any judge assigned to hear this case as well as their immediate family and staff.

3. Appoint Mr. Hooker, Erik Knutson, Yefim Elikman, and Anthony Parker as Settlement Class representatives;

4. Appoint Caddell & Chapman; The Consumer and Employee Rights Law Firm, P.C.; Kazerouni Law Group, APC; Hyde & Swigart; McGuire Law, P.C.; and McMorrow Law, P.C. as Class Counsel;

5. Approve the proposed form and method of giving Settlement Class members notice of the action and proposed settlement ("Notice");

6. Direct that Notice be given to Settlement Class members in the proposed form and manner set forth in the Settlement Agreement;

7. Set a fairness hearing date for final approval of the class action settlement.

This Motion is based upon: (a) the accompanying Memorandum of Points and Authorities; (b) the Declaration of Michael A. Caddell with its exhibits; (c) the Declaration of Christopher Colt North; (d) the Declaration of Abbas Kazerounian; (e) the Declaration of Joshua Swigart; (f) the Declaration of Myles McGuire; (g) the Declaration of Michael J. McMorrow; (h) the Declaration of Francis W. Hooker, Jr.; (i) the Declaration of Eric Knutson; (j) the Declaration of Yefim Elikman; (k) the Declaration of Anthony Parker; (l) the Proposed Order Granting Preliminary Approval of Class Action Settlement, filed concurrently herewith; (m) the records, pleadings, and papers filed in this action; and (n) such other documentary and oral evidence or argument as may be presented to the Court at the hearing of this Motion.

Defendant Sirius XM Radio Inc. does not oppose this Motion.

Date: August 5, 2016

Respectfully submitted,



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*Attorneys for Plaintiff*

### CERTIFICATE OF CONFERENCE

I hereby certify that I have conferred with counsel for Sirius XM Radio Inc., who advised that Sirius XM is not opposed to the relief requested.



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Michael A. Caddell

### CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2016, I filed a true and correct copy of the foregoing document using the Court's CM/ECF system. The system will then send an electronic notice of filing to the following counsel of record:

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/s/  
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